

1 BARRY J. PORTMAN
Federal Public Defender
2 ANGELA M. HANSEN
Assistant Federal Public Defender
3 555 - 12th Street, Suite 650
Oakland, CA 94607-3627
4 Telephone: (510) 637-3500
5 Counsel for Defendant GATES
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7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 OAKLAND DIVISION

10 UNITED STATES OF AMERICA,)	No. CR-10-00039 SBA
)	
11 Plaintiff,)	STIPULATED REQUEST TO CONTINUE
)	HEARING DATE TO NOVEMBER 1,
12 v.)	2010 AND TO EXCLUDE TIME UNDER
)	THE SPEEDY TRIAL ACT AND ORDER
13)	
14 TOMMY ANDRE GATES,)	
)	Hearing Date: September 15, 2010
15 Defendant.)	Time: 9:00 a.m.
)	
)	

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17 The above-captioned matter is set on September 15, 2010 before this Court for a status
18 hearing. The parties jointly request that the Court continue the matter to November 1, 2010 at
19 9:00 a.m., and that the Court exclude time under the Speedy Trial Act, 18 U.S.C. §§
20 3161(h)(1)(D), based on the government's pending motion to revoke the pretrial release order
21 issued by Magistrate Judge Ryu in this case.

22 On January 14, 2010, the Grand Jury charged Mr. Gates with possession with intent to
23 distribute marijuana, in violation of 21 U.S.C. § 841(a)(1), possession of a firearm in furtherance
24 of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i), and felon in possession of
25 a firearm, in violation of 18 U.S.C. § 922(g). For the most serious offense – the § 924(c) charge
26 – Mr. Gates is subject to a mandatory minimum sentence of five years, and a statutory

1 maximum of life imprisonment. He also faces a statutory maximum sentence of five years for
2 the drug trafficking charge and a maximum of ten years for the felon-in-possession of a firearm
3 charge. Mr. Gates made his initial appearance on January 27, 2010.

4 On September 8, 2010, the Court granted defendant's motion to suppress. The current
5 status of the case is that the government is currently deciding whether to dismiss Mr. Gates' case
6 or whether to appeal. That decision will likely be made early next week. In the meantime, Mr.
7 Gates was ordered released by Magistrate Judge Ryu, and the government has filed a motion to
8 revoke that release order pursuant to 18 U.S.C. § 3145(a)(1). The government's motion is
9 captioned as an "appeal" and was filed on September 2, 2010. Mr. Gates' response was filed on
10 September 7, 2010. Because the matter is now fully briefed, if the government decides to pursue
11 an appeal of the Court's order on Mr. Gates' motion to suppress, the parties will request that the
12 Court specially set this matter for a hearing on the motion.

13 The requested continuance will allow the government the time necessary to determine if
14 it will dismiss this case based on the Court's order suppressing the evidence in this case. If the
15 case is dismissed next week, the requested November 1, 2010 date will be vacated. If it is not
16 dismissed, the parties will request that the Court advance the matter so that the pending pretrial
17 detention motion can be heard by the District Court as soon as possible. Accordingly, the parties
18 agree that the period of time from the date of this Stipulation to November 1, 2010 should be
19 excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(1)(D)
20 for delay resulting from any pretrial motion, from the filing of the motion through the conclusion
21 of the hearing on, or other prompt disposition of, such motion.

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DATED: September 14, 2010

/S/
TREVOR RUSIN
Assistant United States Attorney

DATED: September 14, 2010

/S/
ANGELA M. HANSEN
Assistant Federal Public Defender

I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this e-filed document.

/S/ ANGELA M. HANSEN

ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby
FINDS:

1. Given that the Court has granted Mr. Gates' motion to suppress;
2. Given that the government needs an additional week to decide if it will dismiss the case or file an appeal;
3. Given that there is a pending pretrial motion to revoke the release order issued by Magistrate Judge Ryu, and that the government recently filed this motion on September 2, 2010;
4. Given that Mr. Gates filed his opposition to the motion on September 7, 2010 and that the parties will request that the Court specially set this case for a hearing on the pending motion if the case is not dismissed by early next week;
5. Given that the Court needs time to consider the pending pretrial motion before any hearing on the motion; and given that if the case is dismissed, the requested November 1, 2010 date will be vacated.

Based on these findings, IT IS HEREBY ORDERED that the STATUS date of September 15, 2010, scheduled at 9:00 a.m., before the Honorable Sandra Brown Armstrong, is

1 vacated and reset for November 2, 2010, at 9:00 a.m. It is FURTHER ORDERED that time is
2 excluded pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(1)(D) from September 15,
3 2010 to November 2, 2010 or until the conclusion or disposition of the pending motion.

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5 DATED: 9/15/10


HON. SAUNDRA BROWN ARMSTRONG
United States District Judge